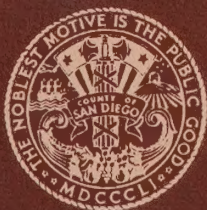


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IMPACT ON LOCAL GOVERNMENTS  
IN SAN DIEGO COUNTY  
OF PROPOSITION 13, THE JARVIS-GANN  
INITIATIVE

*Real prop. tax Ca.  
San Diego co. -- app. r  
expen.*



**OFFICE OF MANAGEMENT AND BUDGET**  
COUNTY OF SAN DIEGO • 1600 PAC HWY • SAN DIEGO CA 92101





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FEBRUARY 17, 1978

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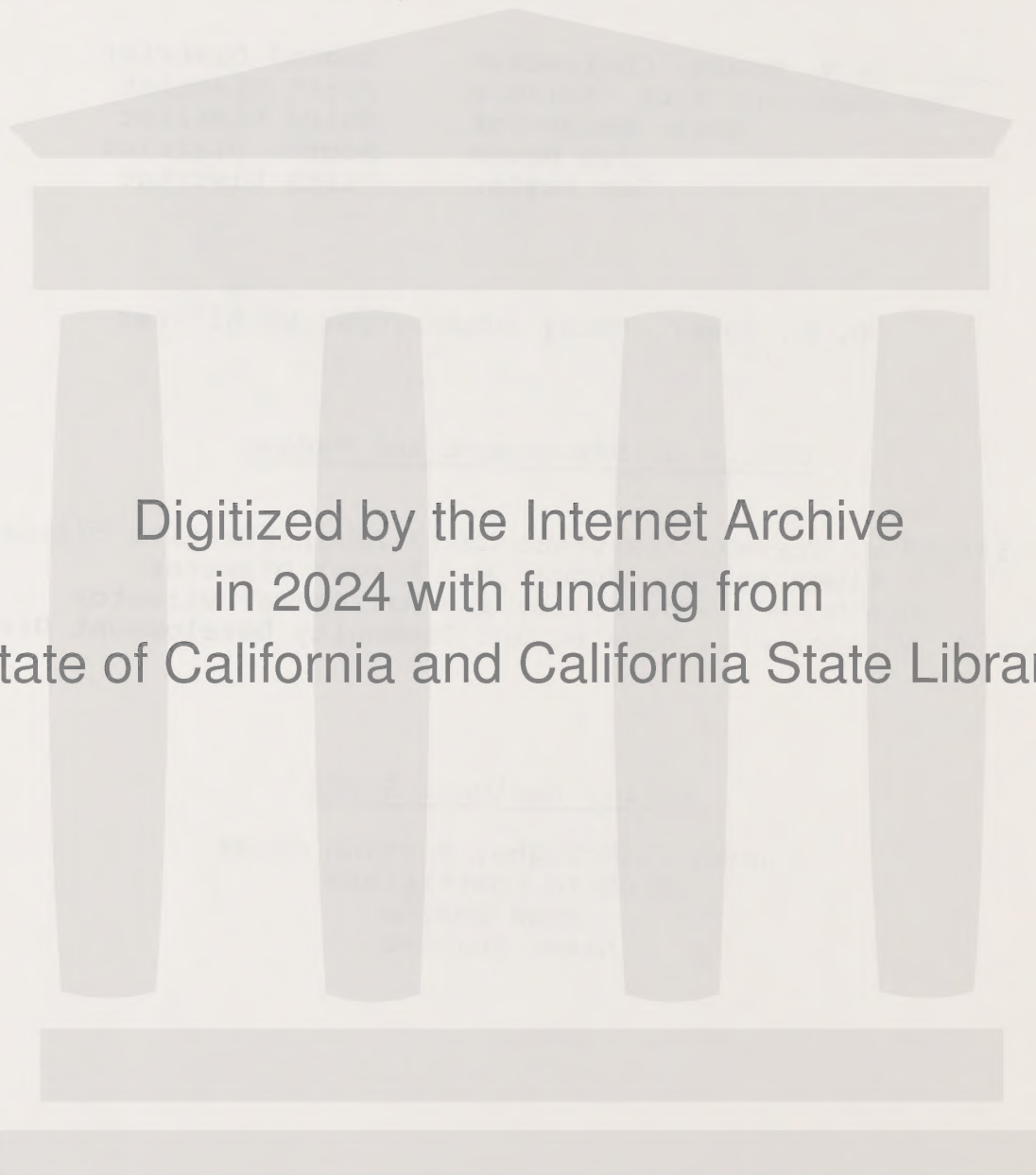
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Particularly noteworthy is the effort of agency staff and OMB Budget Management and Analysis Section staff in preparing the material necessary for the impact analysis on County government services, while at the same time heavily involved in the preparation and analysis of the 1978-79 Proposed Budget.

Particular appreciation is owed to Jack Limber, Deputy County Counsel, for the analysis of legal issues concerning Proposition 13 and to Pat Gayman, County Sacramento Legislative Representative, for the material from other sources which she has been able to provide.

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#### APPENDICES

- A. COUNTY COUNSEL REPORT ON LEGAL ISSUES
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Impact on Local Governments  
in San Diego County  
of Proposition 13, the Jarvis-Gann Initiative

EXECUTIVE SUMMARY

The enclosed report, prepared at the direction of the San Diego County Board of Supervisors, contains four sections.

- |             |   |   |
|-------------|---|---|
| Section I   | - | Introduction  |
| Section II  | - | Scenarios   |
| Section III | - | Impact of Proposition 13 on San Diego County government                 |
| Section IV  | - | Impact of Proposition 13 on other local governments in San Diego County |

The major content of sections II, III and IV are as follows:

- Section II presents alternative scenarios relating to Proposition 13. The first part of this section briefly discusses the major pieces of legislation which are now being considered to provide homeowner and renter property tax relief. This discussion concludes that if a major tax relief bill is enacted prior to the end of March, its passage could tip the scale against Proposition 13's passage in June.

The second part of Section II presents four possible legislative scenarios following the passage of Proposition 13. These are:

1. Legislature removes all public education from property tax financing and increases state sales and income taxes.
2. Legislature removes all non-property services (health, education, welfare and courts) from property tax financing, increases state sales and income taxes and authorizes local income taxes or state revenue sharing.
3. Legislature enacts laws apportioning property tax losses proportionately according to 1977-78 taxes.
4. Legislature does nothing.

Staff considers scenario #3 the most likely in the immediate wake of passage of Proposition 13.

- Section III discusses possible County service reductions amounting to a total \$58.2 million in property tax support. This amount is based upon the assumption that scenario #3, apportioning the property tax reduction proportionately



among all taxing agencies according to the 1977-78 taxes, would be realized. This section is illustrative of the reductions that would be necessary and is neither a recommendation nor a forecast of those reductions. Those reductions would be achieved through service reductions amounting to \$46.7 million, capital program reductions of \$6.25 million and a reallocation of other financing means of \$5.2 million. The service reductions and their potential effect are briefly discussed within agency grouping. The reductions by agency in property tax support would be:

Human Resources	\$17.4 million
Fiscal & Justice	12.5 million
Health Care	3.1 million
Community Services	8.2 million
General Administration	<u>5.5 million</u>
Total	\$46.7 million

- Section IV summarizes the responses the County has received from various local taxing jurisdictions on the effect of Proposition 13 on their finances and operations. Noted in this section are the actions which these governments believe will be necessary to cope with a reduced level of property tax financing. Cities have generally indicated a mixed strategy, including elimination or reduction of some services and increases in other available revenues. The more common reductions or eliminations in cities are capital projects, park acquisition, recreation services, and contributions to charitable or cultural organizations. All cities indicated that there would be additional services reduced or eliminated, but these varied among the different cities.

School districts indicated that a proportionate reduction of 60% of their property tax financing would significantly affect their operations. A reduction of this magnitude would require major adjustments in basic education, such as increasing class sizes, limiting subjects and limiting length of school days.

Of the special districts in the County, fire districts indicated the most serious problems from the property tax reductions. With few exceptions, fire districts rely solely on the property tax for their financing. Any reduction in this source of revenue will require a reduction in fire districts' operations.

Other special districts will be affected to varying degrees, depending on the alternative revenue sources now authorized by State law.

Finally, Appendix A contains a County Counsel discussion of the legal issues concerning Proposition 13.

## 1. INTRODUCTION

On December 23, 1977, the California Secretary of State verified that a citizens' initiative sponsored by Howard Jarvis and Paul Gann had qualified for the June 6, 1978 ballot. The Jarvis-Gann Initiative, which will appear as Proposition 13, has 9 key provisions:

- . Limits ad valorem property taxes of all real property to one percent (1%) of the full cash value of the property.
- . Exempts existing voter approved bonded indebtedness from the 1% limitation.
- . Defines "full cash value" as the Assessor's appraised value of real property as of March 1, 1975, adjusted by changes in the Consumer Price Index - not to exceed 2% per year.
- . Permits establishment of a new "full cash value" when there is new construction or a change in ownership.
- . Permits the reassessment, up to the March 1, 1975 value, of property which was not current on the 1975-76 assessment roll.
- . Requires counties to collect the 1% property tax and to "apportion it according to law to the districts within the counties".
- . Prohibits new ad valorem taxes on real property, or sales taxes, or transaction taxes, on the sales of real property.
- . Permits the imposition of special taxes by local agencies, other than those prohibited, by a two-thirds (2/3) vote of the "qualified electors" of such agencies.
- . Requires a two-thirds (2/3) vote of all members of both houses of the Legislature for any changes in State taxes which would result in increased revenues.

On January 3, 1978 the San Diego County Board of Supervisors directed staff to prepare a fiscal analysis of the potential effect of the initiative on local governments in San Diego County. A preliminary analysis of the initiative's effect was published by the Office of Management and Budget on January 23, 1978. That analysis estimated that governments and special districts in San Diego County would have collected approximately \$331.5 million less in property taxes this year if Jarvis-Gann had been in effect during the 1977-78 fiscal year, a 59.24% reduction.

The January report also noted several uncertainties created by the initiative. Those uncertainties remain as of this writing, and new ones have emerged as the initiative receives closer public scrutiny.\* This report describes some scenarios of State actions that may occur before and after the June 6 election, and discusses the potential effect on services of the government agencies in the County if the voters approve Proposition 13.

A separate report to the Board of Supervisors discussing the legal issues involved in Proposition 13 prepared by County Counsel is contained in Appendix A. The resolution of the legal issues identified in that report will influence the subsequent actions of the Legislature and local governments and will affect the scenarios presented in Section II.

As the section on scenarios illustrates the range of possible occurrences is broad, this makes contingency planning for Jarvis-Gann especially difficult. The discussion in Sections III and IV of the effect on Government Services, should therefore be considered illustrative of what could occur under certain circumstances.

Section III, which discusses County service reductions, represents the present views of the Chief Administrative Officer and agency administrators on how the County might accommodate a 60% reduction in property tax revenues with the least adverse effect. It is neither a recommendation nor a forecast.

Many local governmental agencies cooperated with this project by providing the information summarized in Section IV. Appendix B is a list of those agencies. The County appreciates their contribution.

A number of concerns and differing interpretations of the initiative's effect on property tax financing have come to our attention since the publication of the preliminary analysis. These are noted in Appendix C.

\* Some of these issues are discussed in the report by County Counsel on certain legal aspects of Jarvis-Gann (which is contained in Appendix A.)



## II. SCENARIOS

The California Legislature has considered several versions of significant tax reform and property tax relief for the past three years. At the conclusion of the 1975-76 session a major tax reform bill authored by Senator Peter Behr was nearly adopted.

In the first half of the 1977-78 Biennial session there were hundreds of bills introduced providing various forms and degrees of property tax relief. However, at the close of the first half of that session in September 1977, the only significant measures enacted were a property tax deferral program for senior citizens and a constitutional amendment (which will appear on the June 6 primary ballot as Proposition 8) to provide for the taxing of owner-occupied dwellings at a rate lower than levied on other property. Again, the last days of the first half of the 1977-78 session saw a major property tax relief bill, this one authored by Senator Nicholas Petris, nearly adopted.

By the time the legislators returned in January for the second half of the 1977-78 session, the Jarvis/Gann Initiative had qualified for the June 1978 primary election ballot. This spurred a renewed effort of the legislators to enact a property tax relief bill to provide significant homeowner and renter relief and, possibly, head off voter approval of the Jarvis/Gann Initiative. The Governor called an extraordinary session of the Legislature to run concurrently with the regular session to consider property tax relief. (This is a parliamentary move designed to expedite the consideration of tax bills by lowering the vote requirement from two-thirds to a simple majority for adoption of any legislation introduced in the special session.)

As of the writing of this report, there are four special session bills which appear to have support within the Legislature. Two of these bills, SB6X and SB10X, provide for homeowner and renter relief. The other two, AB7X and SB7X, provide for business inventory tax relief.

At the same time as the special session bills have been introduced and considered by the respective legislative policy committees, a regular session bill, SB1 by Peter Behr, has emerged from the Senate and is now being considered by the Assembly Revenue and Taxation Committee.

If any of these bills providing homeowner and renter property tax relief were enacted soon, the likelihood of the voters approving the Jarvis/Gann Initiative would diminish. There have been many public statements of support for the Initiative unless the Legislature acts to pass some form of significant tax relief.

### Before June 6: Possible Legislative Actions

Proposition 13 will reduce property taxes on all real property to 1% of the market value as appraised in 1975-76. Since the state-wide average is now approximately 2.8%, this will be a reduction of

approximately 64% in statewide property taxes. In San Diego County in 1977-78, the average property taxes were equal to approximately 2.3% of the appraised value of real property. The average percent on owner-occupied property is closer to 2.0% due to the \$7,000 homeowner exemption. Since the Initiative rolls back the appraised value to the 1975-76 level, the estimated limitation is only 0.87% of the 1977-78 appraised value.

In contrast, the three major bills now under consideration will reduce property taxes on owner-occupied dwellings by up to 1.92%. The chart on the following page shows the percentage of the 1977-78 market value of owner-occupied dwellings in San Diego County that would be paid in property taxes under each of the three major tax relief bills under consideration. Note that a principal difference between the relief provided in these bills and the relief provided by Proposition 13 is that each of these bills targets relief directly to homeowners and renters and does not affect property taxes on other than owner-occupied dwellings. Jarvis/Gann would limit property taxes on all real property regardless of use. The renter relief provided in each of the three bills is paid directly to renters in the form of an income tax credit. Proposition 13 would only provide renter relief if landlords pass the tax savings on to tenants through lower rents. There is no legal requirement in the Initiative that this be done.

In addition, each of the three bills before the Legislature provides additional property tax relief benefits for disabled persons and those 62 years old and older. Proposition 13 has no such senior citizen or disabled benefits.

Estimates are that owner-occupied dwellings account for between 35 and 40 percent of the assessed value of real property in the State. Proposition 13 is estimated to result in \$7-8 billion in property tax reduction statewide. Using these estimated ranges, homeowners would be expected to receive direct tax relief benefits from the Initiative of between \$2.45 billion and \$3.2 billion.

The three tax relief measures are estimated to provide benefits to homeowners in 1978-79 ranging from \$831 million for SB6X to \$2.1 billion for SB1. In addition, these measures provide benefits directly to renters ranging from \$165 million in SB6X to \$213 million in SB10X.

A major difference between these measures and Proposition 13 is that these measures provide for reimbursement to local governments for the revenues lost by the property tax reductions, while Proposition 13 provides no replacement revenue.

At the present time it appears that the measure under consideration most likely to be adopted is Senate Bill 1 by Senator Behr. This measure is now before the Assembly Committee on Revenue and Taxation

COMPARISON OF THE PERCENTAGE OF APPRAISED MARKET  
VALUE OF OWNER-OCCUPIED DWELLINGS OF PERSONS UNDER 62 TO BE PAID IN PROPERTY  
TAXES UNDER VARIOUS TAX RELIEF PLANS IN SAN DIEGO COUNTY IN 1977-78

HOME VALUE		\$20,000				\$35,000				\$50,000				\$65,000			
CURRENT % TAX		1.48%				1.82%				1.96%				2.03%			
RELIEF PLAN		SBI* Behr	SB6X Rodda	SB10X Roberti	Jarvis/ Gann	SBI* Behr	SB6X Rodda	SB10X Roberti	Jarvis/ Gann	SBI* Behr	SB6X Rodda	SB10X Roberti	Jarvis/ Gann	SBI* Behr	SB6X Rodda	SB10X Roberti	Jarvis/ Gann
HOUSEHOLD INCOME	5,000	.89%	0.73%	0.36%	0.87%	1.09%	1.39%	0.38%	0.87%	1.18%	1.66%	0.39%	0.87%	1.27%	1.80%	0.39%	0.87%
	10,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.03%	0.87%	1.18%	1.66%	1.00%	0.87%	1.27%	1.80%	0.98%	0.87%
	15,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.29%	0.87%	1.18%	1.66%	1.18%	0.87%	1.27%	1.80%	1.12%	0.87%
	20,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.46%	0.87%	1.18%	1.66%	1.36%	0.87%	1.27%	1.80%	1.26%	0.87%
	25,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.46%	0.87%	1.18%	1.66%	1.55%	0.87%	1.27%	1.80%	1.43%	0.87%
	30,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.46%	0.87%	1.18%	1.66%	1.70%	0.87%	1.27%	1.80%	1.58%	0.87%
	35,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.46%	0.87%	1.18%	1.66%	1.70%	0.87%	1.27%	1.80%	1.82%	0.87%
	40,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.46%	0.87%	1.18%	1.66%	1.70%	0.87%	1.27%	1.80%	1.84%	0.87%
	45,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.46%	0.87%	1.18%	1.66%	1.70%	0.87%	1.27%	1.80%	1.84%	0.87%
	50,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.46%	0.87%	1.18%	1.66%	1.70%	0.87%	1.27%	1.80%	1.84%	0.87%
	75,000	.89%	0.73%	0.85%	0.87%	1.09%	1.39%	1.46%	0.87%	1.18%	1.66%	1.70%	0.87%	1.27%	1.80%	1.84%	0.87%

\* As of 2/15/78 Amendment



where it was given three hearings in the past two weeks. It is scheduled for a Committee vote on February 17. If the Committee gives the bill a "do pass" at that time, it is conceivable the bill could be enacted before the end of February or soon thereafter. If the bill were enacted prior to the end of March, the publicity surrounding its passage could tip the scale against Proposition 13 in June.

A second pre-June 6 scenario has the Legislature not enacting a major tax relief bill. This is a worst case scenario, but is not beyond the realm of possibility. This scenario would heighten the probability of Proposition 13 approval.

#### After Proposition 13 Passes

For purposes of this analysis we have identified four alternative actions by the Legislature that could follow the passage of the Jarvis/Gann Initiative. There is also a fifth alternative which does not involve the Legislature.

That one is a challenge of the Initiative through the Courts on constitutional grounds. County Counsel has provided a separate analysis (Appendix A) which raises the legal issues involved and presents some of the potential constitutional challenges available.

The four legislative actions are:

1. Legislature removes all public education from property tax financing and increases state sales and income taxes.
2. Legislature removes all non-property services (health, education, welfare and courts) from property tax financing, increases state sales and income taxes and authorizes local income taxes or state revenue sharing.
3. Legislature enacts laws apportioning property tax losses proportionately according to 1977-78 taxes.
4. Legislature does nothing.

If Proposition 13 is successful, county staff considers Scenario #3 most likely in the immediate wake of passage. Scenarios #1 and #2 are possible long term actions, with #1 appearing to be the most likely. Finally, Scenario #4 is a "worst case" and, at this point, is considered least likely.

1. Legislature removes public education from property tax financing and increases state sales and income taxes. This scenario is based upon the provisions of Article XVI Section 8 of the State Constitution which reads:

"From all State revenues there shall first be set apart the monies to be applied by the State for support of the public school system and public institutions of higher education."

Assuming that this section is interpreted to require the Legislature to provide for the ongoing finance of public education, the State would have to increase its financing at least to the level of reduced property tax revenues. If the Legislature determines to go a step further and increase State support to provide for the complete buyout of property tax financing of education, it would require that the State increase its support by approximately \$6 billion statewide. In San Diego County, it would require approximately \$340 million to replace total property taxes financing education (excluding debt service). These funds are used to finance the following types of school districts in the County.

<u>Type District</u>	(\$ in Millions)
	<u>1977-78</u> <u>Property Taxes</u>
Elementary	\$ 40.8
Unified	163.7
High School	52.5
Community College	43.9
Other School Purposes	<u>39.0</u>
TOTAL	\$339.8*

For the State to be able to finance this property tax buyout there would have to be an increase in certain statewide revenues. The highest yield State revenue is the sales and use tax which, at its present State rate of 4-3/4%, is expected to yield \$5.52 billion in 1978-79.\*\* To finance the increase for education of \$6 billion would require an increase in the State sales and use tax rate to 9.91%. Added to the local sales and use tax rate and the local transit tax rate, this would total 11.16%.

The next highest yield State tax is the personal income tax which is expected to yield \$5.50 billion in 1978-79.\*\* If the personal income tax were to be used to finance the total property tax buyout of education, it would require a surcharge of approximately 110%.

\*Does not add because of rounding.

\*\*Governor's Budget, 1978-79, p. A-68.

A combination of the two sources would, of course, require lower rates for both.

The problem with this scenario, as with the next, is that it would require the Legislature to enact increased taxes. Under Section 3 of Proposition 13 any increase in taxes requires a 2/3 vote of both houses of the Legislature. The probability of legislative action by such majorities in 1978 appears low. However, public education will be among the hardest hit by a reduction of property taxes.

2. Legislature removes all non-property services from property tax financing, increases State sales and income taxes or authorizes local income taxes or State revenue sharing. Some of the literature published by the proponents of the Jarvis/Gann Initiative indicates that the Initiative's intent is to limit the property tax to the financing of property-related services only.\*

It was not possible to gather the estimate of the statewide costs of non-property services for this report. However, we have estimated the cost of non-property services financed by the property tax in San Diego County. We have used general definitions for non-property services; defining health services as those contained in the Health Care function of the County program budget, welfare services as those contained in the Public Assistance function in the County budget, court services as those contained in the Judicial, Detention and Correction services in the Public Protection and Correction Services function of the program budget, and education as the amounts shown previously in this report. The estimated total local cost of each of these categories financed by property taxes in 1977-78 in San Diego County is as follows:

<u>Services</u>	<u>(\$ in Millions) 1977-78 Property Taxes</u>
Health	\$ 15.0**
Welfare	29.6**
Courts	33.0
Education	<u>339.8</u>
Total	\$417.4

This total amounts to approximately 75% of total property taxes collected in the County in the current year, excluding bonded indebtedness. Assuming the average tax rate of \$9.109, there would be a reduction of \$6.832 to a tax rate of \$2.277 if these services were removed from property tax financing.

\*United Organization of Taxpayers, "Many Years of Tax Research in 30 Minutes of Reading."

People's Advocate, Inc., "Position Paper for Jarvis/Gann Initiative."

\*\*Represents 48% of net County cost which is amount financed by property tax.



If the State were to replace the property tax revenue loss with the sales and use tax for these services, we estimate it would require an increase in the State sales and use tax rate to 11.09% which, when added to the local and transit sales and use tax, would total a rate of 12.34%. This is probably a conservative estimate, as it is based on the assumption that the health, welfare, and court costs in San Diego County are in the same proportion to the statewide costs for these services as the education costs are to the statewide education total.

If these costs were to be borne by the income tax, there would need to be a 134% surcharge on the State personal income tax.

Another alternative within this basic scenario would be for the Legislature to authorize the counties to impose a local income tax to finance these non-property services. Under the provisions of the initiative, though, such a tax would require a 2/3 vote of the "qualified electors." There is a question with regard to the definition of the term. If liberally construed it could mean 2/3rds of all persons 18 years or older who have lived in the State for at least 29 days prior to the election, whether registered to vote or not. If this definition is applied, the probability of any special tax being enacted is virtually nil.

The final alternative within this scenario is for the State to enact some form of revenue sharing with the counties which would be similar to the Federal General Revenue Sharing program. Such a program could be based upon a formula using population, tax effort, personal income, unemployment, and similar factors to determine the relative distribution of monies among the counties. Counties would then be required to adjust their service levels for these programs to fit within the overall revenues available.

Such a revenue sharing program would require considerable changes in existing State laws to allow counties greater discretion in the level of presently mandated programs which they administer. The Legislature would probably be reluctant to relinquish that great a degree of control to counties.

3. Legislature enacts law apportioning tax revenues among taxing jurisdictions in proportion to the relative 1977-78 tax levies. If such a law were to be enacted, the Treasurer-Tax Collector would collect the 1% tax from each taxable parcel. The County Auditor and Controller would calculate the ratio of taxes by jurisdiction collected in each of the more than 2,000 tax code areas in the County. That ratio would then be applied against the total taxes collected from the 1% levy in each of the tax code areas. The amount attributable to each of the taxing jurisdictions from each of the tax code areas would be totaled and distributed by the Auditor and Controller.

One problem in this scenario is the schedule for preparing and adopting local governmental budgets. Under this scenario,

budgets would have to be adopted prior to knowing the amount of property tax revenue that would be made available to the agency.

Most agencies will have great difficulty preparing budgets of such a reduced nature in time to comply with the statutory deadlines now in existence for budget adoption.

The reductions in property tax financing that would occur under this scenario would lead to considerable confusion on the part of local governments. They would need to identify what services would be reduced to cope with the reduced financing. Layoff lists of employees would have to be prepared. In the case of counties, certain State and Federally mandated programs may be affected, thereby placing counties in violation of State or Federal law.

School Districts would face a unique problem. Under present State laws, districts must notify classified employees by mid-March if they may be subject to layoff in the next school year. Certificated employees (teachers) must be notified by mid-May of pending layoffs. If such notification is not given, districts would be in violation of existing law if they were to lay off employees to cope with reduced funding.

4. Legislature does nothing. This scenario is a worst-case situation. The entire system of financing local government is dependent on State law. If the Legislature were not to act after passage of Proposition 13, local governments, would in all likelihood, not be able to rely on any property taxes for financing. Without property taxes many special districts, such as fire districts and county service areas, could be forced to cease operation. Other local governments, such as cities and counties, would be cut back between 25% to 50% or more of their operations. Schools would have the option of operating for part of the year at full capacity and then shutting down or of going on a minimum schedule with greatly increased class size and reduced personnel and support services attempting to stay open all year.

### III. IMPACT OF PROPOSITION 13 ON COUNTY GOVERNMENT

This section examines the potential impact on San Diego County government financing and services if Proposition 13 passes and the tax reduction is apportioned among all taxing jurisdictions in proportion to their 1977-78 property tax collections.

Utilizing the 1977-78 Budget, tentative service level impacts due to Proposition 13 have been identified. These are noted in the following detail by Agency. It should be noted that these impacts provide a demonstration approach to substantially reduced property tax support. No attempt has been made at this time to assign priorities among service level reductions.

These program reductions and funding modifications presume that normal increases in general revenues (Sales Tax, Motor Vehicle In-Lieu, etc.) will cover mandated increases such as Welfare, MediCal, etc. All other program costs in 1978-79 would be retained at current net cost levels. Capital projects will be deferred for at least one year, and the year end fund balance will be about \$27,000,000.

The criteria utilized to arrive at the identification of potential reductions included the assignment of high priority to the retention of services that are mandated, services which have a high ratio of federal and/or state contributions (i.e. Short-Doyle), services which have a significant benefit to the local economy, services with a large clientele and those with a low unit cost.

Identified as generally lower priorities subject to reduction or elimination were services where other providers are available, expenditures that are one-time in nature, services with high unit cost, administrative support services, services which are totally local funded and services which are provided above mandated levels.

A reduction of \$58 million from the 1977-78 secured property tax levy of \$109.9 million was calculated as being necessary to bring the County's 1978-79 property tax financing in line with Proposition 13's limitation. To achieve this level of reduction, there were identified reductions in services of \$46.7 million, reductions from the present level of capital program of \$6.25 million and changes in financing means of \$5.2 million.

The table below summarizes by County agency the comparison of property tax financing with and without the property tax limitation of Proposition 13.



SUMMARY TABLE\*

(\$ IN MILLIONS)

<u>Agency</u>	<u>w/o Prop 13</u>		<u>with Prop 13</u>		<u>% Reduction In Tax Financing</u>
	77-78 Total Budget	77-78 Prop.Tax Financing	77-78 Total Budget	77-78 Prop.Tax Financing	
HR	\$222.8	\$29.5	\$198.2	\$12.1	-59%
HCA	59.2	13.2	56.1	10.1	-23%
F&J	70.0	25.0	57.5	12.5	-50%
CSA	50.2	16.7	41.9	8.5	-49%
GA	30.3	9.3	24.7	3.8	-59%
Total	\$432.5	\$93.7	\$366.9	\$47.0	-50%
Capital	42.1	7.5	35.8	1.2	-84%

\* Excludes Debt Service, Reserves, and Special Funds

CHANGES IN FINANCING

- Revenue Sharing Originally Designated for Capital	\$ 8,500,000
- Full Cost Fees for Solid Waste	300,000
- Revenue Sharing/Countercyclical Shortage for Operations	<u>(-3,600,000)</u>
Total Funding Changes	\$ 5,200,000
Total Program Reductions	<u>52,994,000</u>
Total Achievement	\$58,194,000

These reductions would also entail a reduction of in excess of 2100 staff-years. The last part of this section discusses current layoff procedures and the County's unemployment insurance liability.

HUMAN RESOURCES

Services provided by the Human Resources Agency would be reduced by a total cost of \$21.0 million for a reduction in property tax financing of \$13.9 million. This reduction would require the reduction of 911 staff years from the present staffing level. The principal Service impact of these reductions would be as follows:

Agency and Department Administration and Support - Support activities will be substantially reduced with a 50% reduction in agency

management support, a 33% reduction in Welfare Department overhead and a 25% reduction in Probation Department overhead.

General Relief - Accept only recipients who are 55 years or over.

Social Services - Increase caseload per worker by 60%; delay in case servicing.

Probation Court Support and Supervision - Services would be reduced by 25%; longer waiting period for court cases; less supervision of probationers.

Work Incentive, General Relief Employment, Boarding Home Financing, Care of Court Wards and Supplemental Aid - These services would be eliminated with the result of lessened efforts to self-sufficiency, lowering standards at boarding homes, and eliminating provision for any unusual needs not covered under aid programs.

AFDC - Increase caseload per worker by 50% resulting in less quality control, higher error rate, longer processing times, increased client complaints and worker dissatisfaction.

Institutional Adult Correction - Close 3 honor camps and work furlough center with resultant increase in population at other camps.

Institutional Juvenile Corrections - Girls would be retained at Juvenile Hall and Rancho del Rayo would be closed resulting in inadequate facilities for girls and an increase in the population at Rancho del Campo.

Other services which would be eliminated are:

Own Recognizance Unit - With no probation reports prior to OR determination there will be less OR releases or longer stays in jail.

Juvenile Court Unit - Probation officers will have to appear in court reducing supervision time.

Juvenile Work Project - Human Relations Commission - Elimination of financial support will lead to cessation of commission activities.

#### FISCAL AND JUSTICE

The programs of the Fiscal & Justice Agency would be reduced by approximately \$12.5 million from the 1977-78 budget of \$69.0 million. This reduction can be roughly translated into 618 staff years or, approximately 20% of current staffing levels. The service impact of the reduction would be as follows:

Agency Administration - The 50% reduction will limit the Agency's ability to respond to Board referrals and develop reports. Staff support to citizen committees will be eliminated. Limit the Agency's capacity to review and analyze legislation.

Police Protection - A 28% reduction will impair the County's ability to preserve the peace and protect the lives of the citizens of San Diego County. Team policing county-wide, rural ambulance services, hospital guards, resident deputies, aviation unit and half of the scientific investigation activities will be eliminated.

Judicial - A 15% reduction will affect the courts' ability to adjudicate criminal, civil, traffic and juvenile matters. The principal results will be delays in acceptance of filings and an increased backlog of cases awaiting trial.

The capacity to review civil and criminal processes of the courts will be reduced.

Reduce by 28% investigative and prosecutorial efforts in fraud, anti-trust, organized crime and election law enforcement. Diminish capacity to let and monitor contracts for legal defense services.

Detention - Eliminate Jail health care services, the Vista Jail and Las Colinas Detention facility.

Other Public Protection - Reduce by 28% the Public Administrator's ability to provide management of the fiscal affairs of the incompetent or incapacitated persons, and uncared estates. Reduce by 28% the Coronor's ability to investigate the source of deaths in unusual circumstances.

Property Assessment - Reduce by 28% the capacity to appraise taxable real and personal property and maintain an accurate assessment roll.

Tax Collection - Reduce by 28% the efforts in property tax collection for all local governmental agencies within the County. The effect of reduction would be loss of revenue on unpaid accounts; additional penalty charges to taxpayers due to delay in providing information; delays in tax payment refunds; and loss of interest revenue due to delayed deposits.

Treasurer - Reduce by 28% activities related to custody and investment of monies deposited. Result would be loss of internal revenue from earnings and deposits. Delay processing of County warrants.

#### HEALTH CARE

The services provided by the Health Care Agency would be reduced by a total cost of \$3.1 million with an equal reduction in property tax. Approximately 75 staff years may be associated with this reduction. The principal service areas impacted by these reductions would be as follows:

Health Care Agency - Office Administrative support, response to the Board of Supervisors, CAO, Departments, etc. would be reduced by nearly 45% and these services would either be delayed or not performed.



Probation Psychological Services - There will be an overall delay in responding to Court and Probation requested psychological diagnosis, treatment and guidance services.

DMI-CMH - Requested Service - The pharmacy, laundry, utility, etc. services provided by CMH to other Departments such as Probation, Edgemoor, University Hospital, etc. will be reduced by approximately 75%.

Maternal Health and Child Health - A 6 to 8% reduction in service will result in patient delays and/or less numbers of people served in prenatal, family planning, child care counseling and nutritional guidance activities.

Crippled Children Services - Overall services to the physically handicapped children will be reduced by approximately 8%. Services will be provided to fewer clients on a less frequent basis.

General Health Services - Health education and Public Health nursing assistance in preventing and overcoming general health problems will be reduced by some 22%. As a result high risk groups (low income, minority, senior citizens, etc.) will have a higher incidence of health related problems that will go unresolved.

Community Disease Control - The prevention and control of communicable diseases will be reduced by 16% throughout the County. The potential is that communicable diseases could threaten or actually infect a greater percentage of San Diego County residents each year.

Comprehensive Health Care Project - This program would be cut back 22% and result in an equivalent decrease in service to Southeast San Diego residents.

Environmental Health Protection - Such services as regulation of food handling establishments, small water systems, noise control, septic tanks, vector control, etc., would be cut back by 9%. There would be a delay in responding to citizen complaints and only the more initial complaints would be handled. Periodic inspections of restaurants, dairies, etc., would be done on an infrequent basis.

Edgemoor Geriatric Hospital - Service to patients would be reduced some 5% and there might be a requirement to reduce the number of beds by up to 10%.

Drug - Services to clients would be reduced by 17%. Fewer clients will be seen and fewer services will be provided to existing clients in outpatient and residential care.

#### COMMUNITY SERVICES

Services provided by the Community Services Agency would be reduced by \$8.2 million. This reduction could require the elimination of up to 345 staff years from the present staffing level. The principal effects of these reductions would be as follows:

Community Services Agency Office - The Agency coordination effort provided by the Administrator's office will be reduced by 50%. The coordination of departmental efforts as well as staff assistance to the department, CAO, and Board of Supervisors will be reduced because of the severe reduction of staff.

The Farm Advisor and Government Reference Library would be eliminated. Elimination of the Farm Advisor would result in the withdrawal of University of California agricultural program support and effectively eliminate such programs as 4H and the nutrition and home economics education program for low income families. Elimination of the Governmental Reference Library would remove access to the Governmental Technical Library maintained by the County.

The Department of Transportation - reduce Engineering services and support to Special Districts. These reductions would eliminate such activities as Vapor Recovery and Grading Ordinance Enforcement. There would also be land use impacts in terms of elimination of DOT participation in environmental impact reviews, termination of a program to develop coordinated standards for construction, and increased time for land development map and plan reviews.

Traffic Safety Education and the grant to the Safety Council would also be eliminated. Staff assigned to transit coordination within county as well as at the regional and state levels would be eliminated, as would the County-wide carpool program. Support for County Service Area Formation/Annexation would be ended, precluding formation of CSA's to provide residents with city-like services. Staff assistance in the formation of Assessment Act Districts would be withdrawn, precluding the formation of districts to provide major capital improvements in the area.

The Real Property Department - reduce its efforts on the part of other County departments. Property leasing and property management efforts would be reduced by 30%, resulting in delays in finding property, negotiating agreements and on-going management of County-owned property. Land acquisition efforts for the County would be reduced by 50%.

The Department of Sanitation and Flood Control - reduce both flood control and solid waste programs. In flood control, assuming equal reductions in each flood control zone, it would be necessary to terminate all construction activities but retain the existing operations. In solid waste, disposal fees charged to users would be increased by approximately 100% to sustain current operations.

The Department of Land Use and Environmental Regulation - substantially reduce efforts to update zoning plans. This will delay action on zoning implementation to conform to the General Plan, preparation of ordinances, and staff analysis for policy making bodies.

The Zoning Administrator - reduce program approximately 30%, resulting in delays in processing time and reduced quality of staff analysis of requests.

Support to other County departments by General Services - reduced significantly in some areas. Some specific impacts would be in: a 15% reduction in telephone service to all departments, a 10% reduction of radio communication and maintenance service, a 15% reduction in County mail service and delay of the internal communication flow, a 25% reduction of records management with a resulting impact on departments storing records, a 25% reduction in the vehicle maintenance program with an impact on departments assigned vehicles in terms of reducing usage, a 30% reduction in building maintenance and custodial efforts resulting in less secure facilities which will also be less clean and well maintained, a 50% reduction of architectural service support to departments requiring leased space and modifications, and total elimination of the facilities development function that currently manages the facilities development (capital projects) expenditures.

The Department of Animal Control - reduce shelter hours by 20%, resulting in the shelter's closing at 5:00 p.m. on weekdays instead of 6:00 p.m. and not opening on Saturdays and Sundays as they are now. There will also be a 5-10% reduction in field services such as picking up strays and enforcing quarantines.

The Department of Agriculture - reduce pest detection and suppression activities as well as weights and measures inspections, resulting in a loss of service to the public.

The Department of Parks and Recreation - reduce services by more than 30%. This will affect park maintenance, development of local and regional parks, special use parks such as Quail Gardens, and support to outside agencies such as the San Diego Symphony, various museums, and other cultural organizations.

The emergency planning efforts currently coordinated by the County Office of Emergency Services would be eliminated. Support for Fire Protection Districts would be reduced by 25%, resulting in less training and equipment being available for these districts.

The Registrar of Voters - reduce such election services as registration outreach and election day reporting services. The number of precincts would be reduced by 15%, requiring voters to travel farther and wait longer to vote. Election information available on election day will be delayed and results will take longer.

#### GENERAL ADMINISTRATION

General Administration departments provide basic accounting, personnel, legal, data processing, administrative and management support services to the other four County agencies. Services also include



long range planning, public information and legislative activities. The level of these support services is largely determined by the level of services being provided by the other four agencies. Based on reductions in the other agencies, services provided by General Administration departments would be reduced by a total cost of \$5.6 million for a \$5.5 million reduction in property tax financing. This reduction would include 209 staff years.

#### LAYOFF PROCEDURES

The illustrative budget reductions summarized in this section imply a County staff-year reduction of 2100. This can only be achieved in the period required by layoff.

Provisions for laying off County workers are contained in Rule XIV Part 1 - Layoff Section 14.1.1 thru 14.1.6 of the Rules of the San Diego County Civil Service Commission. The rules provide for the following order of layoff: (1) provisional, (2) limited, (3) certified temporary, (4) probationary, (5) permanent employees. Employees in groups 1 thru 4 above are laid off within their group at the discretion of their appointing authority. Group 5 (permanent employees) are laid off based on the following rating system.

When a layoff does occur, the appointing authority selects the classes to be laid off. With the approval of Civil Service Commission the layoff can then occur by division, section, office, institution or other subdivision of an office, board, department or institution.

Although not specifically stated in the rules, laid off employees may "bump" employees in lower classes if they have a higher rating in that class than the "bumped" employee. Bumping can be done only with the approval of the appointing authority.

The Personnel Department is currently discussing proposed changes to these layoff rules with employee organizations. The Board will be discussing what the parameters of these discussions will be in Executive Session in a few weeks.

#### UNEMPLOYMENT INSURANCE

Assembly Bill 644 was passed by the Legislature on January 19, 1978, and later signed by the Governor. The bill was enacted to comply with Federal requirements to extend Unemployment Insurance (UI) coverage to State, local government and domestic employees.

Under this legislation San Diego County is now liable for the full amount of all benefits paid to ex-employees who file unemployment claims if the County was the only employer who paid base period wages. There is a total maximum potential liability of \$8,112 for each employee. This assumes the maximum weekly benefit rate of \$104 for 39 weeks (including extended duration benefits) on a first benefit year claim (for which the County would be liable for a total

of \$4,056 for each employee) and a second benefit year claim on which the County may be potentially liable for an additional \$4,056 in reimbursable benefits. However, the possibility of the County paying out the full \$8.112 maximum in claims is remote. To accomplish this, an employee would have to draw the maximum first year claim of \$4,056, be reemployed for a short period, then be terminated again in order to be eligible for the second year claim.

In order to decrease the impact of this financial liability on local government, the Federal government has provided for a 16 month phase-in period for funding UI benefits. Under these provisions the County will not be billed for claims filed until August of 1978, and even then the County will pay only 25% of the cost of the claim. In November of 1978 this will increase to 50%, in February of 1979, 75% and then finally in May of 1979 and thereafter the County will become fully liable for claims filed. The attached chart illustrates the phase-in of benefit liability. The chart indicates 1st year cost only. As mentioned before, claimants can then file a second year claim, and draw another 39 weeks of benefits if they are eligible.

The claims filed by former County employees will lead to further pressures on County finances and may lead to the need to reduce services beyond the level indicated earlier to meet the County's liability.

# UNEMPLOYMENT COMPENSATION

## 1st YEAR BENEFITS

<u>CLAIM FILED</u>	<u>BASE PERIOD</u>	<u>BILL DUE STATE (REIMBURSEMENT METHOD)</u>	<u>BASE PERIOD FUNDING SOURCE</u>	<u>1st EXTENSION BEGINS</u>	<u>1st PAYMENT FOR EXTENSION DUE</u>	<u>MAXIMUM COUNTY LIABILITY FOR CLAIM FILED</u>
December 77	Jul 76-Jun 77	-	100% Federal	-	-	0
January 78	Jul 76-Jun 77	-	"	Jul 78	Dec 78	\$ 0
February 78	Oct 76-Sep 77	-	"	Aug 78	Dec 78	\$ 0
March 78	Oct 76-Sep 77	-	"	Sept 78	Dec 78	\$ 0
April 78	Oct 76-Sep 77	-	"	Oct 78	Mar 79	\$ 0
May 78	Jan 77-Dec 77	-	"	Nov 78	Mar 79	\$ 0
June 78	Jan 77-Dec 77	-	"	Dec 78	Mar 79	\$ 0
July 78	Jan 77-Dec 77	-	"	* Jan 79	Jun 79	\$ 0
August 78	Apr 77-Mar 78	Dec 78	75% Federal 25% County	Feb 79	Jun 79	\$ 1,014
September 78	Apr 77-Mar 78	Dec 78	75% Federal 25% County	Mar 79	Jun 79	\$ 1,014
October 78	Apr 77-Mar 78	May 79	75% Federal 25% County	Apr 79	Sept 79	\$ 1,014
November 78	Jul 77-Jun 78	May 79	50% Federal 50% County	May 79	Sept 79	\$ 2,028
December 78	Jul 77-Jun 78	May 79	50% Federal 50% County	Jun 79	Sept 79	\$ 2,028
January 79	Jul 77-Jun 78	Jun 79	50% Federal 50% County	Jul 79	Dec 79	\$ 2,028
February 79	Oct 77-Sept 78	Jun 79	25% Federal 75% County	Aug 79	Dec 79	\$ 3,042
March 79	Oct 77-Sept 78	Jun 79	25% Federal 75% County	Sept 79	Dec 79	\$ 3,042
April 79	Oct 77-Sept 78	Sept 79	25% Federal 75% County	Oct 79	Mar 80	\$ 3,042
May 79	Jan 78-Dec 79	Sept 79	100% County	Nov 79	Mar 80	\$ 4,056

\* After January 1, 1979, the Federal Government will not share the cost of any benefits (regular or extended) based on wages paid to local Government employees after Jan. 1, 1978

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#### IV. EFFECT OF PROPOSITION 13 ON OTHER LOCAL GOVERNMENT AGENCIES

This section summarizes responses received from various governmental agencies in the County to our inquiry regarding the potential effect of passage of Proposition 13 on their agencies.

##### CITIES

The preliminary analysis of the Jarvis/Gann Initiative on San Diego County estimated that cities receive \$61.8 million in property taxes in 1977-78 to finance their operations. We further estimated a reduction of approximately \$36.6 million if the revenue loss due to Proposition 13 were to be apportioned according to 1977-78 collections.

Nine of the fourteen cities responded to County request for information on the impact of the Initiative. \*These nine cities are estimating a reduction of approximately \$36 million. The City of San Diego estimates a loss of \$27 million. (One reason for the higher estimates from the individual cities is due to County staff's use of County wide averages in the preliminary analysis). A second reason is the City of San Diego's differing interpretation of the Initiative's provision relating to the 2% increase in market value of real property. The City interprets this provision as not being effective until 1979-80, whereas County staff assumed it would apply to 1976-77, 1977-78 and 1978-79. Consequently, less taxes would be collected under the City's interpretation.

Most cities outlined a mixed strategy, including elimination or reduction of some services and increases in other available revenues. Capital projects and park acquisition would be eliminated by most cities. Other areas which would commonly be reduced or eliminated include recreation and contributions to charitable or cultural agencies. One city, Escondido, would eliminate its paramedic program.

Police and fire services would be reduced, particularly for "neighborhood watch" and other non-essential services.

All cities indicated there would be some layoff of employees, but most did not provide estimates of the number of employees affected.

Several alternative sources of revenue to offset property tax losses included the utility users' tax, property transfer tax, business license tax, sewer fees, transient occupancy tax, and increased or new fees for parks and libraries. Most cities would redirect their

\*The cities responding were: Chula Vista, Coronado, Escondido, Imperial Beach, La Mesa, Lemon Grove, National City, San Diego, and Vista.

surpluses, Federal Revenue Sharing and anti-recession funds to cover operating expenses.

Finally, like schools, cities are concerned that the loss of local property tax could lead to losses of other revenues based on local funds, particularly Federal revenue sharing and Federal and State grants. Also, Proposition 13 will limit revenues which will be available from tax increment financing arrangements for redevelopment districts.

### SCHOOL DISTRICTS

We showed an estimated loss of \$201.3 million for various educational purposes in the preliminary analysis. This was from the combined educational taxing agencies ranging from elementary school districts through community colleges and including the Countywide Department of Education.

Nineteen school districts responded to the County's request for information. The responses showed that, on an average, property tax revenues constitute 51% of the school district budgets, and ranges from 28% to 85%. Under Proposition 13, if 60% of all property tax revenues is eliminated, school district budgets will be reduced by an average of 30% (in a range of 18% to 51%). All districts who responded indicated that this reduction will significantly affect their services.

If Proposition 13 passes, the objective of most districts will be to maintain direct teaching services to students to the extent possible. The first items to be reduced or eliminated include:

- Building and Maintenance Operations
- Administration
- School Bussing
- Food Services
- Extracurricular Activities (Athletics, Music, etc.)
- Counseling
- Health Services
- Community Programs

Most districts mentioned increasing class size and student-to-teacher ratios, limiting the length of class days, limiting the number of periods, and increasing teachers' class loads as economy measures.

An average of 81% of school districts' budgets goes toward personnel costs, in a range of 70% to 90%. In those districts which provided estimates, between 30% and 50% of all employees would be laid off. State law requires that classified employees who are to be laid off receive notice by March 15 for the coming fiscal year and certificated employees (teachers) be notified by May 15. The timing of

Proposition 13 may not be sufficient to notify everyone. In this case, schools might remain open until they run out of money.

One district noted that it would probably close altogether if Proposition 13 passes and no alternative revenue sources are found. Another district would close its high schools. Several districts said they would expect the State to make up for revenues lost as a result of Proposition 13.

School districts, particularly community college districts, could also lose State apportionment funds which are a more significant funding source to some districts than property tax. If the increased student/teacher ratios and other economy measures result in decreased student attendance, State apportionment funds would also decrease.

## SPECIAL DISTRICTS

### Governed by Independent Boards

While special districts are organized under numerous titles and classifications in State law, they are grouped into four categories for this report. Water, Fire, Hospital and other water districts include include municipal water districts, County water districts and irrigation districts.

#### 1. Water Districts

Nine Municipal Water Districts and two Irrigation Districts responded to the County request.

Most responded that services would not be curtailed, because water districts would raise water rates to pay for capital improvements now funded by the property tax. These water districts predicted "significant" increases in water costs would result, including a 10% increase wholesale, a 30% increase retail, and a 37% increase in sewer service charges.

The shift from property tax to increased water rates which are already rising for other reasons, may have negative effects. It will be more difficult for water districts to incur indebtedness to finance upgrading of main lines and service lines necessary for quality water. The cost of money would probably increase, and users of water would have to pay these higher capital costs through increased fees for water. This shift would be a basic departure from the current practice of funding water capital improvements from property tax. The current practice is based on the premise that all property owners benefit from the availability of water because of the increased value of their land. If water users must pay the cost of capital improvements through water rates, then they are subsidizing owners of undeveloped lands who will profit from the availability of water when their land is sold.



## 2. Fire Districts

The following summarized the responses of fifteen San Diego County fire protection districts. Each fire district is almost solely dependent on property tax revenues. Other than charges for ambulance services in some districts, no alternative revenue sources are authorized in State law for financing of fire districts. Thus, a 60% reduction in property tax revenues means a 60% reduction in budgets. Approximately 85% of fire district costs is for personnel. Reductions in staff estimated by the 15 fire districts ranged from 50-60%. This would require elimination of ambulance and paramedic services in 7 of the fire protection districts. It would also eliminate or seriously reduce fire prevention, education programs, fire prevention home inspections and plan checking, CPR and first aid training and other special fire suppression and safety programs. Two (2) fire districts report the need to end operation of a total of three (3) fire stations, and one (1) engine company.

A major result of Proposition 13 would be to seriously hamper the ability of fire protection districts to provide a level of fire protection services that would be cost-effective in reducing property owners' fire insurance premiums. Every area in the United States is graded by the insurance industry to determine its physical defenses against fire. On a scale of 1 to 10, an area is rated on a weighted basis according to water supply (39%), fire department (39%), fire services communication (9%), and fire safety control (13%). Several fire departments reported that they find it cost-effective to maintain a 4 or 5 rating. The effect of a 60% reduction in revenue would lower that rating possibly as far as 10, the end of the scale. An owner of a \$50,000 home may be faced with estimated increased fire insurance cost ranging from \$32 to \$60 per year above current combined cost for fire taxes and insurance.

We asked what effect a 100% reduction in property tax revenues would have on fire districts. All fire districts are almost solely dependent on property tax revenues. Each of the 15 fire districts responded that unless alternative sources of revenue were provided they would have to cease operations without property tax funding.

We asked what alternative sources of revenue might offset a loss of property tax revenue. Most fire departments responded that alternatives to the property tax would probably not be adequate. Several fire districts listed donations, fund raisers, service fees for inspections and emergency responses. Use of volunteer fire fighters was also cited.

### 3. Hospital Districts

Three of the four hospital districts in the County, Tri-City, Grossmont, Fallbrook and Northern San Diego County responded to our inquiry.

The effect of a 60% and that of a 100% reduction in property tax for hospitals would be different only in degree. These hospital districts use property tax revenues primarily to fund capital projects and equipment purchases. Building projects, acquisition of modern medical equipment and provision of additional services would therefore be delayed.

Jobs created by these additional services would also be lost unless alternative revenues could be found. It appears that these hospitals would have to increase prices for medical care and lower the quality and quantity of that care. Rate increases may be disallowed under proposed Federal hospital costs-containment legislation. One hospital reported a problem in interpreting Proposition 13 which would likely be resolved only in the courts if the property tax initiative becomes law. The hospital district has voter approval for a tax override to pay a lease to a hospital authority which is a joint powers agreement between the County and the hospital district. The lease payments are used to pay outstanding revenue bonds of the hospital authority. If this tax override/lease purchase arrangement is interpreted as a current bonded indebtedness exempt from the Proposition 13 limitation then the hospital district has the general problems discussed above. However, if proposed property tax limitations were applied to the tax override, the hospital district would face more difficult financial problems.

### 4. Other Districts

We received responses from four other districts. These were two community service districts, a recreation and park district, and the Penasquitos Sewer District. The responding community services districts provide sewer and water services. One indicated that it would shift its financing to rely more heavily upon service charges if there were a reduction in property tax revenues. The other district expressed concern that it would not be able to operate with such a loss in tax revenue.

The recreation and park district indicated that it would increase user fees to compensate for the reduction in property tax revenues.

The San Diego City Manager indicated that the Penasquitos Sewer District would suffer a reduction in property tax revenue to meet the debt service since the sewer bonds were issued without voter approval.

## SPECIAL DISTRICTS

### Governed by the Board of Supervisors

The Board of Supervisors sits as the governing body for 136 special districts as provided for by State law. The major districts which are partially or fully financed by property tax revenues are County Service areas, Highway Lighting and Lighting Maintenance Districts, Sanitation Districts and the San Diego Flood Control District. The County Library District is discussed in the section on the impact on County services.

#### 1. County Service Areas

The cost of the service provided within each special district is provided by revenue obtained through ad valorem taxes. One service area (CSA 17 - San Dieguito Ambulance Service) is partially supported by direct billing of individual recipients of the service. One new service area (CSA 96 - Santee Recreational Services) is scheduled to provide initial service in fiscal year 1978-79 and provides for a portion of the revenue to be raised by fees.

The formation process for each area established in recent years has included an election of qualified voters to set a maximum property rate required to provide authorized services. Most service areas, when established, obtain initial revenue through a loan from the County Service Area Revolving Fund repayable in not more than five years.

#### Specific Impact:

- a. A 60% decrease in property tax revenue, without alternate funding, will result in a direct reduction in service provided within the boundary of each service area. Further, initial discussion with County Counsel staff indicates that the repayment of outstanding principal and interest on existing loans will also be subject to the limitation of Proposition 13. All revenues may be needed for debt repayment, rather than continued service until the debt is repaid.
- b. A total elimination of property tax revenues, without alternate funding will result in service termination. The majority of service areas provide improvement, repair and continuing maintenance of road not included in the County maintained road systems. The impact of termination will be primarily limited to relatively small numbers of people. Five service areas now provide local park maintenance, three provide structural fire protection, two provide ambulance service at the paramedic level, one provides domestic water supply, and one will provide recreational services starting in 1978-79. These latter services are provided over



an extended area, and will affect a significant population within the boundary of the service area.

- c. Inasmuch as most service areas only provide one authorized service, a priority of services to be reduced would not be applicable; the overall level of service throughout the boundary would be decreased proportionate with the reduction of revenue available.
- d. An alternate revenue source is now authorized by Government Code Section 25210.77a by fixing calendar year "benefit" charges. No majority protest by property owners is provided for, and generally no maximum dollar amount is specified. The amount of such charge must be reasonably related to the cost of providing the authorized service.

County Counsel and the Transportation Department foresee difficulty in the use of this provision for certain types of services. Such charges appear to be most appropriate for water, sewer, or garbage collection services, because the benefit to each property owner is more direct and more easily quantified for determining benefits. Services providing a more indirect benefit would be more difficult to quantify.

The attendant cost involved in determining level of benefit, adoption of required County Ordinance for each service area, conducting an annual public hearing (if collection of fixed charge is on tax roll), and the billing procedure will add to the required administrative costs involved in providing the service.

It is doubtful that the administrative process can be completed in time to be effective prior to the initiative. After the initiative is effective, a two-thirds vote of the qualified electors of each district is required before such a special tax may be imposed.

## 2. Highway Lighting/Lighting Maintenance Districts

### General:

The cost of the service provided within each special district is provided by revenue obtained through ad valorem taxes. Thirty-one such special districts exist within the unincorporated areas providing for the continuing cost of operation and maintenance of street lighting systems.

County Ordinances require street improvements, including street lighting, for those lands being developed within the unincorporated areas. The lands being improved are then annexed to an existing special district to provide for the street lighting expense. The cost of initial installation and operation and maintenance until the lands are on the tax rolls is paid for by the developer through a special deposit.

Specific Impact:

- a. A 60% decrease in property tax revenue, without alternate funding, will result in a direct reduction in service provided within the boundary of the district. Street lights in the ownership of the County and/or the San Diego Gas and Electric Company are involved. SDG&E provides the energy for all street lighting and maintenance for those company owned facilities. The various rates charged by the Company to the various special districts is that approved by the Public Utilities Commission for the level of service being contracted.
- b. A total elimination of property tax without alternate funding will result in street lighting being terminated. Rates approved by the PUC include a factor for amortization of Company initial expense. Termination of the contract for each special district would be required.
- c. Inasmuch as only street lighting is involved, a priority of services to be reduced would not be applicable; the overall level of service throughout the boundary would be decreased proportionate with the reduction of revenue available. Where some level of service can be continued, street lights not satisfying the "safety" level (intersections, and points of traffic conflict) would be turned off first.
- d. An alternate revenue source within the authority used for street lighting is not known. County Service Areas are authorized to provide street and highway lighting. Conversion of the existing districts to County Service Areas would provide the alternate funding authority of Government Code Section 25210.77a, with additional administrative costs mentioned in the CSA alternate revenue discussion.

### 3. Sanitation Districts

The sanitation districts fund costs almost entirely from sewer service charges. Some use property taxes to fund redemption and there are a few exceptions. These exceptions are discussed below.

- a. Only those districts with operation and maintenance funds raised by ad valorem taxes would be affected; these are the Rancho Santa Fe and Whispering Palms Sanitation Districts.
- b. Rancho Santa Fe Sanitation District obtains a portion of the necessary operation and maintenance funds through the imposition of a property tax. Passage of the initiative would necessitate an increase of sewer service charge from \$106.00/year/equivalent dwelling unit, a 60% increase.
- c. Whispering Palms Sanitation District has historically obtained approximately one-half of its operations and maintenance funds from a property tax. Success of the initiative would require the existing sewer service charge of \$45.00/year/equivalent dwelling unit to be increased to approximately \$80.00/year/equivalent dwelling unit, or 78%.
- d. Five of the districts have no ad valorem tax: Lemon Grove, Montgomery, Pine Valley, Solana Beach, and Wintergardens.
- e. The remaining seven districts - Alpine, Buena, Cardiff, Julian, Lakeside, Ramona, Spring Valley - impose a property tax for bond debt principal and interest purposes only.

### 4. Flood Control District

The Flood Control Program provides services to the five active zones of the San Diego County Flood Control District. There is no net County cost to the part of the program, but the Flood Control Zones fund their costs almost entirely from the property tax.

The potential 60% reduction in property tax revenues would eliminate all new flood control facility construction, approximately \$3 million, and would reduce the zone activities to management and minimal maintenance.

A potential source of replacement revenue would be an annual flood control or storm drainage charge or user fee to be collected on a parcel basis (not an ad valorem property tax) under Section 17.5 of the San Diego County Flood Control District Act. Assuming the legality of such fees under the Jarvis/Gann Initiative, the zones could continue to function at the level of revenues produced.













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# County of San Diego

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February 17, 1978

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CHIEF DEPUTY COUNTY COUNSEL

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YVES A. HEBERT	D. DIAZ OLSON
GREGORY C. M. GARRATT	ARLENE PRATER

Honorable Board of Supervisors  
County of San Diego  
335 County Administration Center  
San Diego, California 92101

Honorable Board:

Re: Jarvis/Gann Initiative

You have asked our office to summarize the legal impact of the Jarvis/Gann Property Tax Initiative, respond to questions concerning the constitutionality of the Initiative and discuss what legal recourse may be available to the County to resolve some of the issues raised by the Initiative and permit sufficient time for the Legislature to adopt such laws as would be necessary to implement the Initiative in the event of its passage. A copy of the Initiative is attached hereto.

The Initiative would add a new Article XIIIA to the California Constitution without repeal or amendment of any existing constitutional provisions relating to taxation. As discussed below there are considerable potential conflicts between the Initiative and existing constitutional provisions relating to taxation which can only be ultimately resolved by the legislature and the courts. If adopted by the voters on June 6, 1978, the Initiative would be effective July 1, 1978 except that upon the date of its passage, the State would be prohibited from enacting "changes in State taxes enacted for the purpose of increasing revenues" absent a vote of 2/3 of all members of each house of the Legislature. In our analysis below, we quote each subsection of the Initiative separately and make comments both as to the anticipated effect of the subsection and legislative or judicial interpretation necessary to clarify conflicts or ambiguities. Lastly we discuss the alternatives available by way of judicial action to either prevent or delay the implementation of the Initiative.

## ANALYSIS

A. Section 1[a]:

"[a] The maximum amount of any ad valorem tax on real property shall not exceed One percent [1%] of the full cash value of such property. The one percent [1%] tax to be collected by the counties and apportioned according to law to the districts within the counties."

This provision would essentially limit the amount of property tax on real property to 1% of the full cash value as later defined in the Initiative. The provision does not expressly authorize any level of government to impose or levy the tax. This 1% limit is a restriction the amount of tax billed to the property rather than the valuation of the property which is treated elsewhere. Further, it is not clear whether the 1% limitation is cumulative based upon all levies of all "districts" on a particular piece of property; i.e., total tax bill not to exceed 1%, or whether each "district" may collect an ad valorem tax not to exceed 1% of the full cash value. The probable intent is a total 1% limit, though this ambiguity will have to be resolved by the Legislature or the courts. The provision then requires the County to apportion the tax "according to law" to the "districts" within the County. Arguably there is no authority to apportion any of the real property tax to cities or to the County unless the use of the term district is so all-embracing as to include cities and counties. Further there is no existing law relating to apportionment of taxes except for the County, upon collection, to distribute the tax revenues to the districts based upon their levy. Given the 1% limitation, there is no methodology for determination of what portion of that 1% is to be applied to each of the several "districts" or taxing authorities which may have the authority to levy a tax on the specific piece of property.

Note that the maximum amount applies only to real property and not to personal property which currently is taxed based upon the prior year's tax rate for real property on the secured tax roll. (Constitution, Article XIII, Section 12.) Under the current structure of our tax laws, the effect of the limitation on real property taxes would probably be felt in the subsequent year on personal property though the Legislature might act to change the method of assessment of personal property. A further complication arises in the

assessment of possessory interests which are private interests in property owned by a tax-exempt entity and for some purposes would be considered a tax on real property. It is unclear at this point in time whether the Initiative would directly be applicable in establishing a limit effective July 1, 1978 on the taxes on possessory interests which represent a significant portion of the total tax revenues of local government entities in areas with substantial development of government-owned lands, such as the lands of the Port District which have been improved with substantial commercial and industrial developments taxed as possessory interests. If not, such a limit however probably would exist for subsequent years as for personal property.

B. Section 1[b]:

"[b] The limitation provided for in subdivision [a] shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective."

This provision permits collection of taxes in addition to the 1% to the extent necessary to pay interest and redemption charges on previously voter-approved indebtedness. It is unclear whether "redemption charges" includes principal, though the probable intent would be that both interest and principal are contemplated. The 1% limitation still applies to any indebtedness not subject to voter approval. The 1% limitation, of course, would remain applicable to funds to be raised to pay subsequent voter-approved general obligation bond issues. While revenue bond issues and other indebtedness not subject to voter approval may not be directly affected, the significantly reduced ability of local governments to fund their operations may drastically limit the marketability of revenue bonds such as joint powers agency bonds funded by lease-lease back transactions where the lease payments are backed by property tax revenue or redevelopment agency bonds funded by property tax increment financing.

C. Section 2[a]:

"[a] The full cash value means the County Assessors valuation of real property as shown on the 1975-76 tax bill under 'full cash value', or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 tax levels may be reassessed to reflect that valuation."



This provision would define "full cash value", for the purposes of the establishment of the base for the 1% limitation, as the amount shown on the 1975-76 tax bill for real property as established by the County Assessor. We note that such amount is often pre-equalization hearing and pre-cancellation or correction as a result of public agency errors. This provision would also appear to conflict with Article XIII, Section 15, which provides authority for the reassessment of taxable property physically damaged or destroyed after a lien date. As is noted repeatedly throughout this analysis, because the Initiative neither repeals nor amends existing constitutional provisions, considerable conflicts arise which may only be resolved by legislative or judicial action.

This provision does provide for adjustment of full cash value on real property "when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment." It may be assumed, as under existing law, such reassessments would apply as of the next lien date. While identification of recorded purchases and reassessments based thereon does not appear to be a particularly difficult task, considerable problems arise with the use of the term "newly constructed". Real property is defined to include improvements or structures on the underlying land. (Rev. & Tax Code §§ 104, 105) Clearly when an improvement is built on raw land that would be newly constructed real property. However, it is not clear under the Initiative whether the underlying real property likewise can be reassessed to current value or whether the reassessment is solely limited to the value of improvement. Further, in the event the "improvement" is merely a remodeling or the addition of a family room upon an existing residential dwelling, it is unclear whether such work will have the effect of triggering the reassessment of the entire property interest or whether only an increment would be added relative to the value of the new construction.

It has also been pointed out elsewhere that the more frequent turnover of residential property as compared to commercial or business properties, i.e., once every seven years, will over a period of years result in a possible inequity discriminating against residential property by causing it to be a larger portion of the tax based upon new valuations. Such an effect may give rise to an argument by residential property owners of the denial of equal protection under the law, based both on the State Constitution and the Fourteenth Amendment of the Federal Constitution.

Likewise, identical residential properties will be valued differently based solely on date of acquisition. Article XIII, Section 1, of the Constitution presently provides:

"Sec. 1. Unless otherwise provided by this Constitution or the laws of the United States:

"(a) All property is taxable and shall be assessed at the same percentage of fair market value. When a value standard other than fair market value is prescribed by this Constitution or by statute authorized by this Constitution, the same percentage shall be applied to determine the assessed value. The value to which the percentage is applied, whether it be the fair market value or not, shall be known for property tax purposes as the full value.

"(b) All property so assessed shall be taxed in proportion to its full value." (Emphasis added.)

The value standard established by the Initiative is, of course, not uniform and though as a constitutional provision the Initiative would "otherwise provide" a different standard as apparently may be authorized by Article XIII, Section 1, presently, the inequality of tax burden and perceived inequities may be argued to be a denial of equal protection under the State and Federal Constitutions of such an extent and with an absence of an overriding public purpose such as to render the provision of the Initiative invalid.

It may be further noted that the Initiative is silent on the assessment of property by the State Board of Equalization such as public utility property which represents a significant dollar amount of tax revenues as well. The continued taxation of such public utility property at a significantly higher level than property subject to the Initiative may likewise give rise to challenges for violation of equal protection guarantees under the State and Federal Constitutions.

Lastly, Section 2[a] permits property "not already assessed up to the 1975-76 tax levels" to be reassessed. This in effect would permit escape assessments for all properties which had not been assessed to the 1975-76 level and appears to authorize the Assessor to exercise his judgment a second time in reviewing all the 1975 assessments to determine whether they were in fact proper current assessments for that year. Because of the obvious considerable amount of time it will take for the Assessor to review all 1975 assessments and make adjustments, the "full cash value" base for use in fiscal year 1978-79 will be uncertain for a considerable time after the effective date of the Initiative on July 1, 1978.

D. Section 2[b]:

"[b] The Fair market value base may reflect from year to year the inflationary rate not to exceed two percent [2%] for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction."

This section appears to permit a limited adjustment in the full cash value or fair market value level above the 1975-76 level upwards not to exceed 2% for any given year and appears to permit a reduction of any amount as demonstrated by the Consumer Price Index or some unspecified "comparable data for the area under the taxing jurisdiction". Neither adjustment is mandatory. Recognizing that the property tax revenue is a combination of both the rate of the levy and the full cash value of the property, section 1[a] puts a limit on the amount to be collected by the levy at 1% of the "full cash value" base, section 2[a] establishes the "full cash value" base generally at the 1975 level subject to adjustment for sale or construction and then Section 2[b] permits the modification to that "full cash value" base.

A problem may occur in attempting to develop what in effect is "comparable data for an area under a taxing jurisdiction" and may result in differing full cash value adjustments based upon localized conditions not related to cost, income or market data of property transactions and again give rise to challenges from taxpayers on the basis of the denial of equal protection under the law in that the "full cash value" of their property would be fluctuating from one taxing area to another based on movement of a consumer price index or "comparable data" which may not in any reasonable fashion relate to the actual market value of real property. By way of example, a declining neighborhood may experience a reduction in actual fair market value for the particular properties and yet the "fair market value" base may be adjusted upward based on increasing cost of living. This particular provision may be interpreted to apply to the overall base for the taxing jurisdiction so that the entire fair market value of all property in the jurisdiction may only move up to a maximum of 2%, while individual properties may be able to be moved upward or downward within that total limitation



based upon their actual movement in the market place. While such an interpretation may perhaps be more reasonable in an attempt to reflect actual market conditions, it appears contrary to the general intent of the Initiative to treat the "fair market value base" as being the "value" for each specific piece of property and thus not permit the "value" of any individual property to go up or down more than is authorized by Section 2[b] and permit property which is actually declining in true value nonetheless to increase in assessed "value" if the consumer price index has gone up.

This section also raises an issue as to the authority to levy escape assessments for property not in existence in 1975 but in existence and not taxed for 1977 or 1978. Under present law an improvement built on real property in 1976 but not identified and assessed by the Assessor until 1978 now may be assessed as an escape assessment for 1976 and all years subsequent and likewise in the event improvement was destroyed, under present constitutional authority, the assessment may be cancelled. Arguably under Section 2[b] the amount of the escape assessment may not increase the "base" for the entire property more than 2% for each year of escape assessment nor may the cancellation occur absent a judicial resolution of the conflict between 2[b] and other provisions of the Constitution authorizing such escapes or cancellations.

E. Section 3:

"From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed."

This provision would prohibit change in State taxes from the effective date of the article, i.e., the date of the vote June 6, "for the purpose of increasing revenues". A minor change in method of computation or reporting imposed by the Legislature or by the State Board of Equalization may

have the effect of reducing certain tax burdens and increasing others with either no change or with a change in the total revenue collected. In some instances the impact on total revenues may not be known until the change is implemented. This section would appear to prohibit any such potential change absent the 2/3 vote of all members of both houses of Legislature.

The section further prohibits absolutely the imposition of any new ad valorem taxes on real property or sales or transaction taxes on the sales of real property. The prohibition on levying additional taxes absent the 2/3 vote gives rise to the argument that the proposition embodies more than one subject, i.e., a property tax limitation and general State taxation limitation contrary to state constitutional requirements for initiatives (Art. 11 § 8). This provision for a 2/3 vote to increase all State taxes also appears to be directly contrary to State Constitution, Article XIII, Sections 27 and 28, which permit a majority vote for the imposition of banking, corporate and insurance taxes. Again, judicial resolution would be required to resolve these apparent conflicts. Further, this provision appears to be in conflict with the constitutional authorization for the State to levy property taxes up to the extent of 25% of its budget (Art. XIII, § 22) without the express repeal thereof.

F. Section 4:

"Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district."

This provision may have the effect of terminating all existing local taxes such as sales taxes, business taxes, real property transfer taxes and transient occupancy taxes and would require a 2/3 vote of "qualified electors" before such taxes could be effective after July 1, 1978. Note that the 2/3 requirement is not of the voters voting in a particular election but all "qualified electors" which would appear to mean all persons eligible to register. There is no definition of the term "qualified elector" though an elector is defined as a person who meets the minimum age and residence requirements required to register. (Elec. Code § 17.) Arguably the modification by the use of the term "qualified"

could be construed to mean electors who are registered, though electors who are registered have been defined simply as a voter in Section 18 of the Elections Code. It would appear impossible to determine how many "electors" actually exist within a given jurisdiction though of course it would be possible to determine the number of "qualified electors" if that term means persons who have registered.

This section also creates a dilemma in appearing to specify that cities, counties and districts may not impose ad valorem taxes on real property which may be construed to be an absolute prohibition on the levy of property taxes just as Section 3 of the Initiative prohibits the levy of property taxes by the State. Thus conceivably no one is authorized to impose an ad valorem real property tax. Though such a construction is obviously unreasonable, it raises the issue of the lack of clear intent of the specific language of the Initiative which must be resolved by the Legislature and the courts. Lastly we note that the section prohibits the imposition, absent the 2/3 vote, of "special taxes on such district". (Emphasis added.) Of course, the taxes are not levied on the public entity but rather on property within the public entity which is subject to taxation.

G. Section 5:

"This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article."

This provision makes applicable the entire Initiative as of July 1, 1978 except Section 3, which provides the limitation upon the State action to increase revenues by modification of State taxes and prohibits State enactment of property taxes on real property or property transactions, which would become effective on the date of election of June 6, 1978. The July 1, 1978 effective date will cause considerable administrative problems in not only the computation of available revenues for purposes of developing budgets but also in the preparation of the assessment roll for the fiscal year 1978-79 which pursuant to the Initiative as discussed above, would have to in some fashion be entirely revised to reconstruct an assessment roll based upon 1975 values and adjustments in value between 1975 and 1978 based upon sale or construction or title change. It is not likely that such recomputations and adjustments could be made in such a fashion as to permit the normal tax calendar and budget calendar as established by State law to be operative.



Urgency legislation would be needed to extend various deadlines for both the tax process and the budget process to permit orderly functioning of government absent a judicial suspension of the effectiveness of the Jarvis Initiative.

In view of the foregoing problems of the administration of a substantially changed assessment process, the argument may be made that the effective date makes the Initiative at least in part applicable to fiscal year 1979-80 rather than fiscal year 1978-79 in that under present tax law the assessments for fiscal year 1978-79 are based on value and ownership of property as of lien date March 1, 1978 which, of course, predates the effective date of the Initiative. Such an argument, however, would not go to the 1% limit on the amount of tax paid for fiscal year 1978-79 but only to the determination of full cash value on lien date March 1 for the 1978-79 fiscal year. Further, such an argument would appear to be contrary to the apparent intent of the Initiative to be fully effective for the tax year 1978-79. Again, this issue like the others must be resolved by the Legislature and the courts.

H. Section 6:

"If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect."

This severability clause will serve to permit portions of the Initiative to remain in effect in the event other portions are judicially challenged and held invalid or unconstitutional. The exact effect cannot be determined, of course, until such time as it is ascertained what sections of the Initiative are challenged and ruled on by the courts.

LEGISLATIVE AND JUDICIAL ACTIONS

A. SUBJECT MATTER

As is noted above, virtually every section and subsection of the Initiative is subject to some ambiguity or conflict with existing statutes or constitutional provisions. These conflicts and ambiguities will of necessity have to be resolved by a combination of legislative and judicial interpretation. In addition, the very authority to place such an initiative on the ballot has been challenged in lawsuits filed in Superior Court in Sacramento County

and in the Supreme Court on the basis that the Initiative violates Article II, Section 8(d) of the California Constitution which provides:

"An Initiative measure embracing more than one subject may not be submitted to the electors or have any effect."

The petition of the Jarvis/Gann Initiative had the words "PROPERTY TAX LIMITATION" in the "black letter" portion of its title. The Initiative however, also treats limitations on other state taxes in Section 3 and other local taxes in Section 4. We note that while the one subject matter rule may be alleged to be violated, there is little support in the California case law to invalidate an initiative measure prior to the vote thereon and a review of cases from other jurisdictions demonstrates that the courts have frequently given a very liberal interpretation to similar restrictions to permit initiatives to be voted upon wherever reasonable or possible. (90 A.L.R. 570, 4 A.L.R.2d 617.)

#### B. EQUAL PROTECTION

A variety of the provisions of the Initiative give rise to potential arguments of a denial of equal protection of the laws guaranteed in the Fourteenth Amendment of the United States Constitution. Among the rights intended to be protected from discriminatory state action by the Fourteenth Amendment of the United States Constitution are rights to acquire, enjoy, own and dispose of property and equality and enjoyment of property rights were regarded by the framers of the Fourteenth Amendment as essential preconditions to the realization of other basic civil rights and liberties which the amendment was intended to guarantee. (Mulkey v. Reitman (1936) 64 Cal.2d 529.) Generally, the equal protection clause applies to state tax legislation. (Township of Hillsborough v. Cromwell (1945) 326 U.S. 620, 90 L.Ed. 358; Ohio Oil Company v. Conway (1929) 281 U.S. 146, 74 L.Ed. 775.) However, it is clear that the equal protection clause does not operate to prevent or prohibit all inequalities in state taxation. (Beers v. Glynn (1908) 211 U.S. 477, 53 L.Ed. 290; City of San Mateo v. Mullin (1943) 59 Cal.App.2d 652; Henry's Restaurant of Pomona, Inc. v. State Board of Equalization (1973) 30 Cal.App.3d 1009.) Nevertheless, the Fourteenth Amendment requires that in the exercise by a state of its taxing power, a citizen shall not by arbitrary and discriminatory provisions be denied equal protection.

(Keeney v. Comptroller of the State of New York (1911) 222 U.S. 525, 56 L.Ed. 299.) It has generally been said that property may not be classified in such a way for tax purposes that it bears a burden greater than that of other property of like value in the same assessment jurisdiction. In classifying property for taxation, some benefit to the property taxed is a controlling consideration and the plain abuse of this power will justify judicial interference. (Union Refrigerator Transit Company v. Kentucky (1905) 199 U.S. 194, 50 L.Ed. 150.)

No definite rule can be laid down for determining whether a particular classification for tax purposes is reasonable or arbitrary, and the question must be decided upon the facts and circumstances appearing in each particular case. (Bell's Gap Railroad Company v. Pennsylvania (1889) 134 U.S. 232, 33 L.Ed. 892.) However, it has long been recognized in California law that there should be an expectation of general equality of operation or approximation of equality that may fairly be expected to result from assessment of property benefited in proportion to its ascertained value. (Hart v. Gaven (1859) 12 Cal. 476; Los Angeles County Flood Control District v. Hamilton (1917) 177 Cal. 119.)

As discussed above, the specific application of the Jarvis/Gann Initiative to various taxpayers may well result in an inequality of taxation sufficient to support a challenge by such taxpayers to the Initiative on the basis of a denial of equal protection of laws.

#### C. IMPAIRMENT OF OBLIGATIONS OF CONTRACTS

An additional argument may be made that the Initiative may also violate the federal constitutional provision on the impairment of the obligations of contracts. (U. S. Constitution, Article I, Section 10, Clause 1.) While the exercise of the power to tax has normally not been held to be an impairment of the obligation of contract on the theory that there is no contract between the state and individual as to the level or extent of taxation (McCoppin v. McCartney (1882) 60 Cal. 367; Hay v. Hill (1884) 65 Cal. 383.), the substantial reduction of property tax revenues may be asserted to be a constitutionally prohibited impairment of public agencies' contracts when the public agencies are unable to meet their fiscal obligations.



It is clear that the federal constitutional prohibition applies to state constitutions and constitutional amendments. (Russel v. Sebastian (1913) 233 U.S. 195, 58 L.Ed. 912; Bier v. McGehee (1892) 148 U.S. 137 L.Ed. 397.)

Specifically, the constitutional prohibition governs state action affecting fiscal obligations of taxing authorities. The United States Supreme Court has held that public bonds issued by states and their subdivisions constitute contracts within the meaning of the provision and a taxing power which was the source of payment thereof at the times such bonds were issued may not be withdrawn or limited thereafter, leaving no adequate means of payment. (Seibert v. United States, ex rel. Lewis (1886) 122 U.S. 284, 30 L.Ed. 1161.) Thus, arguably, the limitation of property tax revenues available to pay redevelopment agency bonds or lease payments, which in turn pay for a joint powers agency bonds, may be violative of the constitutional prohibition on the impairment of contracts. Similarly, those public agencies authorized to enter into installment sales contracts such as fire districts may have their obligations under contracts substantially impaired by the reduction of the property tax revenue. Further, after an appropriation has been made or revenue provided by law, the state cannot withdraw such provisions where to do so would amount to impairment of contractual obligation. (Robinson v. MaGee (1858) 9 Cal. 81; Rose v. Estudillo (1870) 39 Cal. 270.) Likewise, the multitude of agreements between the County and various State and Federal Agencies to provide various social programs contingent in part upon the use of local revenues along with matching funds from federal or state revenues may be so drastically affected by the reduction of property tax revenues, as to support an argument for the impairment of the obligation of contracts even to the point of impossibility of compliance with federal and state requirements to undertake certain programs at local cost. The full extent of the impact of the Initiative on public agency contracts may not be known until priorities are established for the use of the reduced property tax revenues. However, there is little doubt that some impairment of obligations will result and absent offset revenues as a result of legislative action, litigation should be considered by local public agencies to test the constitutionality of the Initiative.

#### D. DELAY OF EFFECTIVE DATE

The impact of the July 1, 1978, effective date would be to virtually render meaningless the entire assessment and

budget calendars established by the Legislature. Thus, urgency legislation will be required to insure that an orderly framework is established statewide for the undertaking of all the necessary actions to prepare an appropriate assessment roll and budget documents and then make proper levies of property taxes.

Absent such legislation, judicial action should be considered to delay the effectiveness of all or part of the Initiative to insure the orderly process of government and the provision of necessary public services.

E. ALTERNATIVE FUNDING

Both the fiscal impact of the Initiative and possible legislative action to provide alternative revenue sources are discussed in detail in the report of the Chief Administrative Officer. Since the Initiative would require a two-thirds vote of all members of both Houses of the Legislature (Section 3), or a two-thirds vote of "qualified electors" of a local agency to provide alternative taxes (Section 4), the likelihood of alternative funding being provided in a timely fashion to prevent impairment of the operations of local agencies appears unlikely at best. In the weeks ahead, our office will continue to assist the Chief Administrative Officer, Office of Management and Budget, and Office of Intergovernmental Affairs in reviewing various options available at both the state and local level to obtain such alternative funding, so that your Board may consider such options and take such action as you deem appropriate.

F. PENDING LITIGATION

A lawsuit was filed in Superior Court, County of Sacramento, by Bruce W. Sumner and Edward J. Wallin, against the Secretary of State, seeking to bar the Jarvis/Gann Initiative from appearing on the June 6, 1978 ballot. The hearing was held on February 15, 1978 and the Superior Court held that the title and summary of the Initiative were misleading. The court directed specific wording be changed to permit both the title and summary to be a more accurate description of the Initiative. The Judge declined to invalidate the Initiative on the argued basis that it represented more than one subject matter. Therefore, with the revised title and rewording on the ballot, the matter will appear for election on

February 17, 1978

June 6, 1978, absent further judicial action on appeal. It is expected that an appeal will be pursued both on the constitutional basis that the Initiative itself contains more than one subject matter and on the basis that the title and summary on the petitions were misleading in the same manner that the title and summary on the ballot have now been held to be misleading. We shall continue to keep you apprised of further developments in that action as such occur.

Additionally, a second lawsuit has been filed in the Supreme Court by Richard E. Erwin, the Public Defender of the County of Ventura, seeking a writ of prohibition against the Secretary of State to block the Initiative. The Public Defender asserts arguments based upon the alleged dual subject matter of the Initiative, the reduction of revenues to the extent to deny constitutional guarantees of representation to indigent criminal defendants, the impairment of obligations of contracts in violation of the Fourteenth Amendment of the United States Constitution and a denial of equal protection as guaranteed by both the Fourteenth Amendment and the California Constitution. The Public Defender has asked, by letter to D. K. Speer, Chief Administrative Officer, for assistance of our County by way of amicus briefs. Your Board is scheduled to review both fiscal and legal impacts of the Initiative at your conference of Thursday, February 23, 1978. In the event you wish to consider joining in or initiating any litigation relative to the Initiative, we would be pleased to discuss that matter with you in executive session after your Board conference.

Very truly yours,

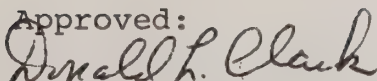
DONALD L. CLARK, County Counsel

By 

JACK LIMBER, Deputy

JL:jss  
A78-0211

Approved:



County Counsel





## TEXT OF JARVIS/GANN

That Article XIIIIA is added to the Constitution to read:

### Section 1.

[a] The maximum amount of any ad valorem tax on real property shall not exceed one percent [1%] of the full cash value of such property. The one percent [1%] tax to be collected by the counties and apportioned according to law to the districts within the counties.

[b] The limitation provided for in subdivision [a] shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective.

### Section 2.

[a] The full cash value means the County Assessors valuation of real property as shown on the 1975-76 tax bill under "full cash value", or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real property not already assessed up to the 1975-76 tax levels may be reassessed to reflect that valuation.

[b] The fair market value base may reflect from year to year the inflationary rate not to exceed two percent [2%] for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction.

### Section 3.

From and after the effective date of this article, any changes in State taxes enacted for the purpose of increasing revenues collected pursuant thereto whether by increased rates or changes in methods of computation must be imposed by an Act passed by not less than two-thirds of all members elected to each of the two houses of the Legislature, except that no new ad valorem taxes on real property, or sales or transaction taxes on the sales of real property may be imposed.

### Section 4.

Cities, Counties and special districts, by a two-thirds vote of the qualified electors of such district, may impose special taxes on such district, except ad valorem taxes on real property or a transaction tax or sales tax on the sale of real property within such City, County or special district.

Section 5.

This article shall take effect for the tax year beginning on July 1 following the passage of this Amendment, except Section 3 which shall become effective upon the passage of this article.

Section 6.

If any section, part, clause, or phrase hereof is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected but will remain in full force and effect.







## APPENDIX B

The following government agencies have responded to a County of San Diego request regarding the effect of Jarvis/Gann on their operations.

### Cities

Chula Vista  
Coronado  
Escondido  
Imperial Beach  
La Mesa  
Lemon Grove  
National City  
San Diego  
Vista

### School Districts

#### Elementary

Alpine  
Cajon Valley  
Chula Vista  
Lakeside Union  
Lemon Grove  
National  
Santee  
South Bay Union

#### Unified

Borrego  
Coronado  
Oceanside  
Poway  
San Diego  
Vista

### High Schools

Escondido  
Grossmont  
Julian  
San Dieguito  
Sweetwater

### Community Colleges

Grossmont  
Palomar  
Sweetwater

### Water Districts

Canebrake County Water District  
Carlsbad Municipal Water District  
Lakeside Irrigation District  
Olivenhain Municipal Water District  
Otay Municipal Water District  
Padre Dam Municipal Water District  
Pomerado County Water District  
Rainbow Municipal Water District  
San Dieguito Water District  
Santa Fe Irrigation District  
Wynola Water District



### Fire Districts

Alpine  
Bonita - Sunnyside  
Borrego Springs  
Encinitas  
Fallbrook  
Grossmont - Mt. Helix  
Lakeside  
Lower Sweetwater  
Montgomery  
Pine Valley  
Rancho Santa Fe  
Solana Beach  
Santee  
Spring Valley  
Vista

### Hospital Districts

Fallbrook  
Grossmont  
Northern San Diego County

### Other Districts

Julian Community Services  
Lake Cuyamaca  
Pauma Valley Community







## APPENDIX C

### REFINEMENT OF PRELIMINARY ANALYSIS

As noted in the text, some additional concerns have come to our attention which may have an effect on information presented in our preliminary analysis published on January 23, 1978. Following is a discussion of the three we consider most significant.

The first deals with the interpretation of the allowance for increases in market value over the 1975-76 Assessor's appraised value.

Section 2 (b) of the Initiative reads:

"The fair market value base may reflect from year to year the inflationary rate not to exceed two percent (2%) for any given year or reduction as shown in the consumer price index or comparable data for the area under taxing jurisdiction."

Certain agencies, including Orange County and the City of San Diego, are interpreting this provision as not retroactive to 1975-76, but rather taking effect first in 1978-79. If we were to make the same assumption, the estimated assessed value base of \$5.7 billion for 1977-78, as shown on page 7 of our preliminary analysis, would be reduced to \$5.5 billion. This would result in a further reduction of \$8.1 million in total property tax revenues allowable to \$220 million in the current year.

If this assumption were taken a step further and the increases due to change in ownership are also not retroactive, then the assessed value base would be further reduced to \$5.33 billion, yielding a maximum allowable property tax collection of \$213.2 million in 1977-78. This would mean that the County-wide percentage reduction in property tax collections would be 61.9% instead of the 59.24% shown on page 8 of the preliminary analysis. This is a reduction of property tax collections of \$346.4 million.

If the property tax loss were to be distributed proportionately among taxing jurisdictions in the County, County government would have been restricted to \$44.7 million, a reduction of \$72.6 million from the actual anticipated collections for 1977-78.

A second issue, noted by Counsel, deals with the treatment of state-assessed property. Section 2 (a) of the Initiative reads:

"The full cash value means the County Assessor's valuation of real property as shown on the 1975-76 tax bill under 'full cash value', or thereafter, the appraised value of real property when purchased, newly constructed, or a change in ownership has occurred after the 1975 assessment. All real



property not already assessed up to the 1975-76 tax levels may be reassessed to reflect that valuation." (emphasis added)

The State Board of Equalization assesses all property owned by public utilities in the state. This amount is reported to each County Assessor and included separate on the assessment rolls. If taken literally, Section 2 (a) might infer that state assessed property would be exempt from the provisions defining full cash value. If that becomes the case, properties assessed by the state would reflect a higher valuation than those assessed by County Assessors and would therefore bear a continually increasing share of the property tax burden, even if subjected to the 1% limitation.

In San Diego County in 1977-78, state assessed secured property has an assessed valuation of \$47.7 million, 7.0% of the total secured assessment roll. In 1975-76, state assessed secured property had an assessed value of \$323.3 million, 6.7% of the total secured assessment roll. If locally assessed property (assessed by the County Assessor) was to be based on the 1975-76 valuation, but state assessed property was to be based on the 1977-78 valuation, then the state assessed property would account for 9% of the valuation and contribute the same percentage of the total secured taxes under the provisions of the Initiative.

A final concern is the effect of Proposition 13's passage on cities' and counties' general revenue sharing receipts. We noted in our preliminary analysis that it was not possible to calculate the amount of Federal General Revenue Sharing that might be lost due to the Initiative's passage. However, we stated that it could possibly be more or less the same percentage as the property tax loss. We have since learned that this was an overstatement. The Federal Office of Revenue Sharing has informed the State that the approximate state-wide decrease in revenue sharing would equal 8.9%. This is because the formula used to allocate revenue sharing to California is the so-called "five factor formula" of which tax effort is only one of the five factors considered. It must be noted, though, the amount of revenue sharing decrease to particular cities and counties will depend on any implementing legislation the Legislature may enact. For example, should the Legislature determine to have counties levy the 1% tax and then distribute the proceeds among the governments within the county, cities would lose their property tax portion of "relative tax effort" and consequently receive a decrease in revenue sharing monies greater than the 8.9% statewide loss. Counties on the other hand would receive an increase in their revenue sharing distributions.

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